

**CITY OF DULUTH**

Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

**STAFF REPORT**

<b>File Number</b>	PL 14-035	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Variance	<b>Planning Commission Date</b>	May 13, 2014	
<b>Deadline for Action</b>	<b>Application Date</b>	April 8, 2014	<b>60 Days</b>	June 7, 2014
	<b>Date Extension Letter Mailed</b>	April 22, 2014	<b>120 Days</b>	August 6, 2014
<b>Location of Subject</b>	3635 Lake Ave S			
<b>Applicant</b>	Robert and Carole Lent	<b>Contact</b>	218-727-1743; lent777@charter.net	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	010-3100-01860 and 010-3100-01870			
<b>Site Visit Date</b>	May 7, 2014	<b>Sign Notice Date</b>	April 29, 2014	
<b>Neighbor Letter Date</b>	April 24, 2014	<b>Number of Letters Sent</b>	23	

**Proposal**

Applicants are proposing a 500 square foot addition that would require a variance from the front yard setback (19 feet instead of 25 feet from 37th Street).

	Current Zoning	Existing Land Use	Future Land Use Map Designation
<b>Subject</b>	R-1	Residential	Traditional Neighborhood
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	R-1	Residential	Traditional Neighborhood
<b>West</b>	R-1	Residential	Traditional Neighborhood

**Summary of Code Requirements (reference section with a brief description):**

50-14.5 - Minimum depth of front yard in the R-1 district is 25 feet.

50-37.9.C. - General Variance Criteria (paraphrased here): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant's property, enforcement of the ordinance would cause the landowner practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That they are proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

1-1

**Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):**

Traditional Neighborhood Future Land Use. Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

**Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):**

Staff finds that:

- 1.) Site includes an existing 2 1/2 story home which, according to the County Assessor, was built in 1975 and is 990 square feet. Applicants would like to build a 500 sq. ft. addition.
- 2.) Proposed addition would maintain the current 5'8" setback adjacent to Lake Avenue. According to UDC Section 50-37.1.L, the Land Use Supervisor can approve a minor adjustment (up to 1 foot) to a setback. Because applicants are proposing to build only 4" closer to the property line, the Land Use Supervisor has agreed to grant the administrative adjustment for the side yard setback.
- 3.) House is currently almost 32' from front property line (37th Street). Applicants are requesting a variance to the front setback to build an addition 19' from the property line.
- 4.) A single-family home is a reasonable use in the R-1 district. Granting the variance would not alter the essential character of the area, as there are two houses closer to 37th Street. Nearby streets (36th and 38th) also have houses located close to the property line.
- 5.) Request for variance is not due to exceptional narrowness, shallowness, or shape of the applicant's properties. The relief is not necessary for the preservation and enjoyment of a substantial property right. Although applicant wishes to add handicapped accessible features to the home, there is no need for accessibility for the current occupants. In addition, Staff believes that a handicapped accessible bedroom and bathroom could fit into the space currently occupied by the existing bedroom, bathroom, and office, thereby minimizing the need for a variance. Although applicant states the need for a caretaker bedroom, this need is not demonstrated at this time; if the need arises, a bedroom on another floor of the house could be used as a caretaker bedroom.
- 6.) One phone call and one written comment were received from neighbors, both indicating support for the variance. No other public, City, or agency comments were received.
- 7.) Per UDC Sec. 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within 1 year.

**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the above findings, Staff recommends that Planning Commission deny the variance, for the following reasons:

- 1.) Request for variance is not due to exceptional narrowness, shallowness, or shape of the applicant's properties.
- 2.) The relief is not necessary for the preservation and enjoyment of a substantial property right.
- 3.) Applicants do not demonstrate need for handicapped accessibility at this time and thus do not have practical difficulty.
- 4.) Reason for request is to serve as a convenience to the applicant.
- 5.) Applicant has not demonstrated practical difficulty.

T-2

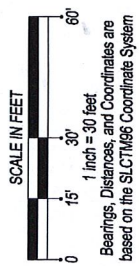
**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**





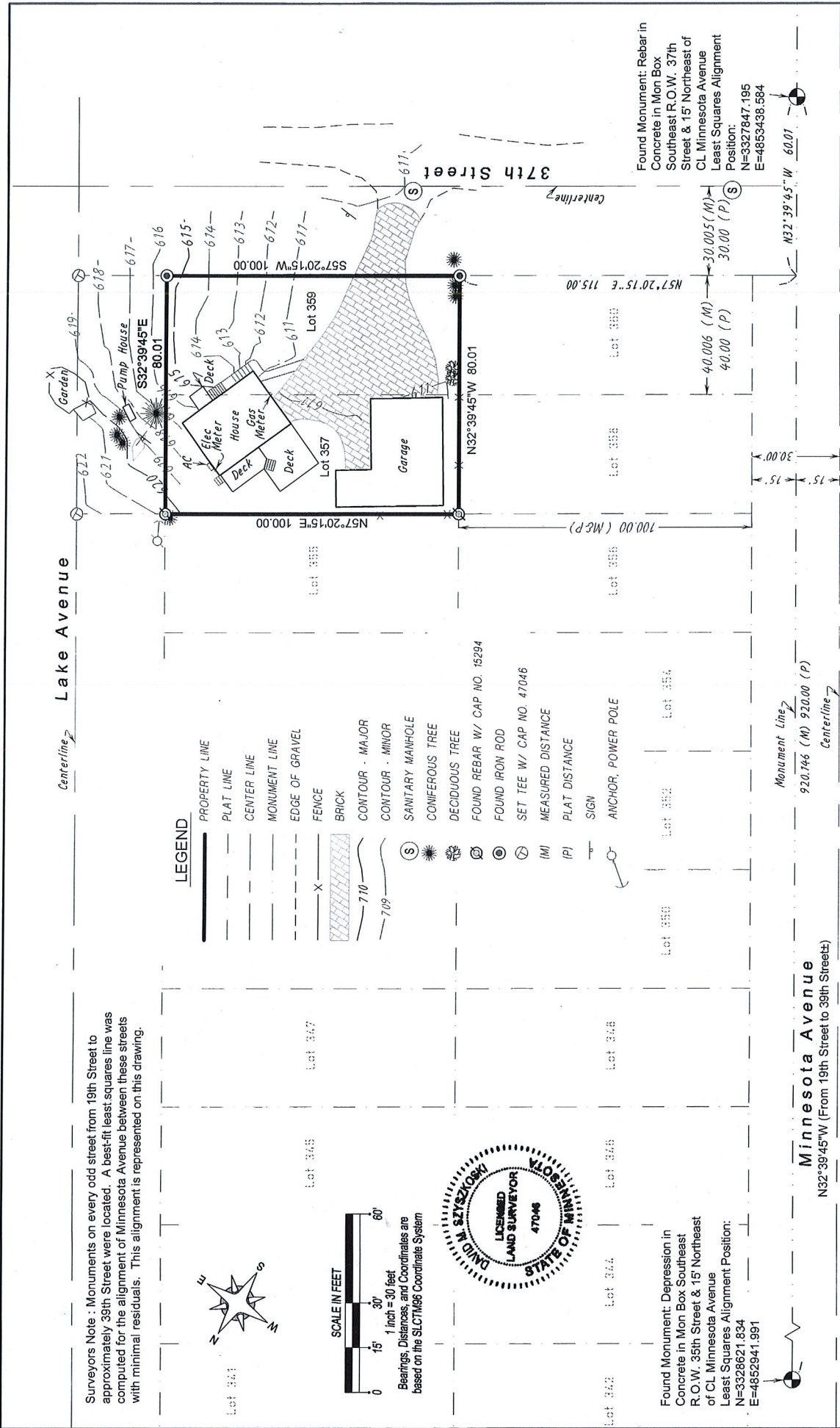


Surveyors Note: Monuments on every odd street from 19th Street to approximately 39th Street were located. A best-fit least squares line was computed for the alignment of Minnesota Avenue between these streets with minimal residuals. This alignment is represented on this drawing.



**LEGEND**

- PROPERTY LINE
- PLAT LINE
- CENTER LINE
- MONUMENT LINE
- - - EDGE OF GRAVEL
- X - FENCE
- BRICK
- CONTOUR - MAJOR
- CONTOUR - MINOR
- SANITARY MANHOLE
- CONIFEROUS TREE
- DECIDUOUS TREE
- FOUND REBAR W/ CAP NO. 15294
- FOUND IRON ROD
- SET TEE W/ CAP NO. 47046
- MEASURED DISTANCE
- (M) PLAT DISTANCE
- (P) SIGN
- ANCHOR, POWER POLE

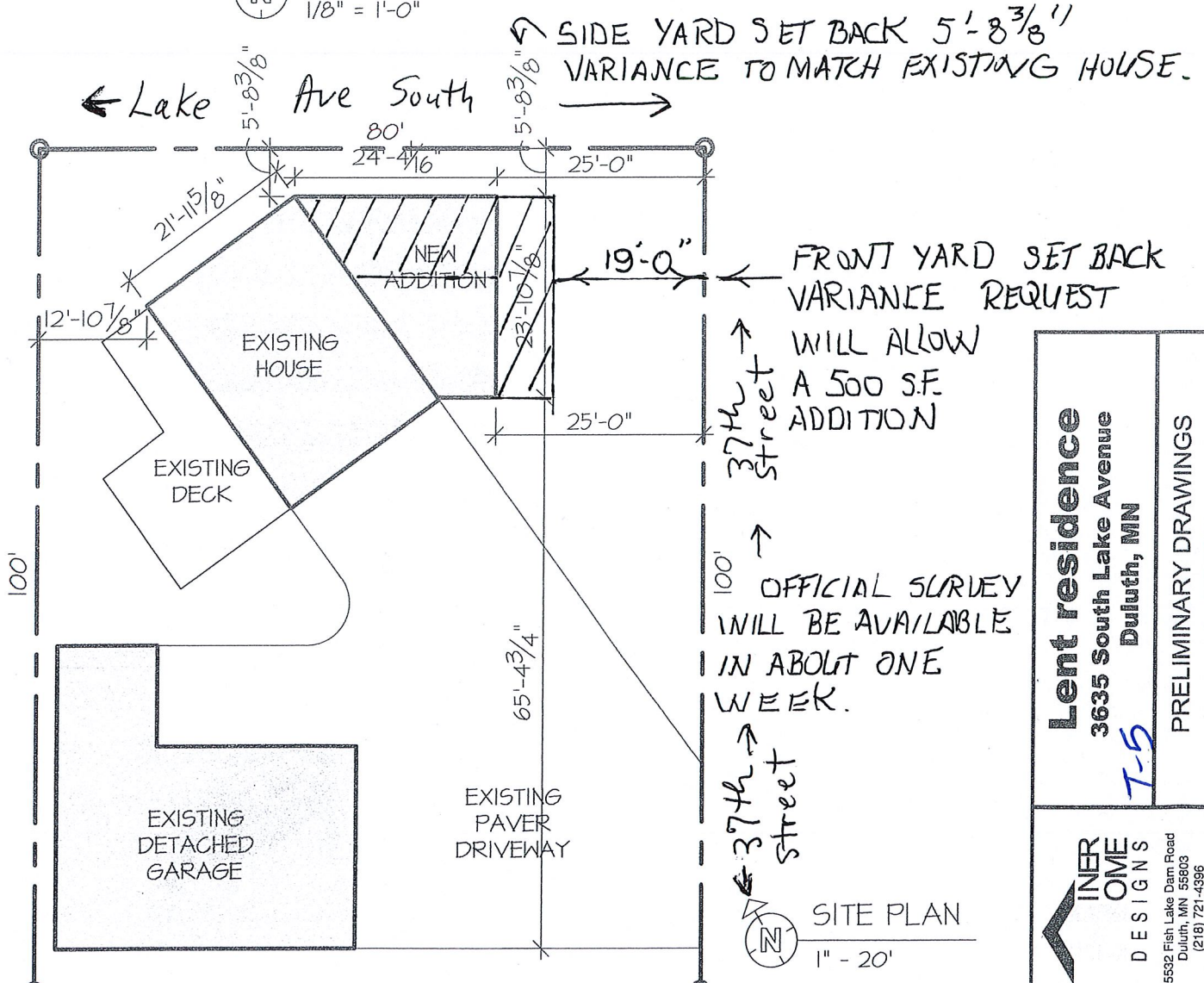
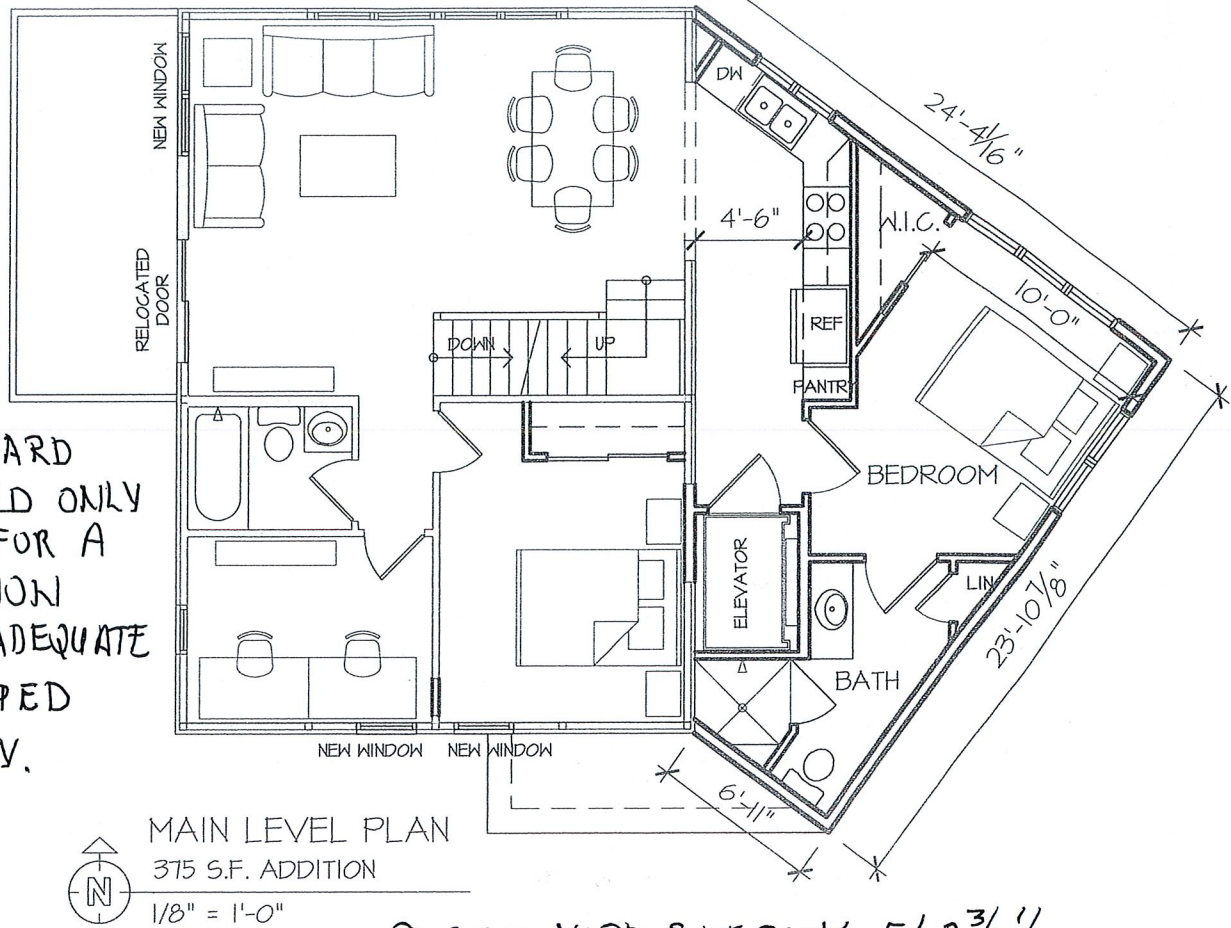


<p>4560 Norway Pine Place Duluth, MN 55811 218-727-8796 tkda.com</p>	<p>I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.</p> <p>DATE: 4/4/2014</p>	<p>1 2 3</p>	<p>NO. DATE</p>	<p>REVISION</p>
<p><b>TKDA</b></p>	<p>Boundary Survey of Lots 357 &amp; 359, Lake Avenue, Lower Duluth in the NW 1/4 of Section 12, Township 49 North, Range 14 West, St. Louis County, Minnesota for: Robert Lent</p>	<p>JOB NO. 15513.013</p>	<p>FILE NO. L4718</p>	<p>DATE OF FIELD WORK: 4/03/2014</p>

T-4



25' FRONT YARD  
SETBACK WOULD ONLY  
ALLOW ROOM FOR A  
375 SF ADDITION  
WHICH IS INADEQUATE  
FOR HANDICAPPED  
ACCESSIBILITY.



**Lent residence**  
3635 South Lake Avenue  
Duluth, MN

PRELIMINARY DRAWINGS  
April 5, 2014

**INNER  
OME  
DESIGNS**

5532 Fish Lake Dam Road  
Duluth, MN 55803  
(218) 721-4396  
hinner@msn.com



**Reasons for Request:**

Our 2 ½ floor home was built when we were in our 20's. We built maintaining a small footprint taking full advantage of the beauty of the area. Our long term goal at that time was to grow old together in our house.

Now in our 60's with family members in their 90's, we look at the vertical design, the number of stairs, the narrow doors, etc. and we need to do some work. We need to live in a more handicapped accessible home for our family, friends, and, last but not least, ourselves as we age. We need to be able to stay in our home and not be forced to move due to physical disabilities.

We are asking for setback variances so that we can expand our main floor with the inclusion of an elevator and handicapped accessible living space. We are asking to maintain the existing 5'8" Lake Avenue setback and also to reduce the 37<sup>th</sup> Street setback to 19 feet. With the additional 6 feet on the front side, the addition would be furthest away from abutting neighbors. The additional 6 feet would give us the 500 square feet we need to build a handicapped accessible addition. The elevator would allow us to use our existing lower level entrance and driveway which would keep the landscape as unchanged as possible.

Our goal is to build the smallest addition as possible to meet our aging needs, making a kitchen, bedroom and bath more handicapped accessible. A bedroom is needed in the plan leaving the existing bedroom as a caregiver area. Currently when one of us is sick, the only other sleeping area is a couch. A bathroom and kitchen are needed in the plan because they are currently inadequate for handicapped use. We aren't interested in the "quantity" of the addition but we do need "quality" and when you are talking about handicapped accessible quality, you need more space. We don't just want a bigger house. We need a house that works with us and for us as we age. This need goes beyond our personal need. It is and will be an ongoing need of the community as more and more baby boomers start to look to the community for accessible housing.

**Evidence that variances will not have a negative impact:**

See photos of exterior showing survey markers and rough estimates of addition placement.

Our existing house is significantly set back from 37<sup>th</sup> Street as compared to our next door neighbors at 3640 Minnesota Avenue and 3640 Lake Ave. South. Our planned addition with set back variances would still be set back further than either of our neighbors. We would not be standing out in any way.

After researching St. Louis County Parcel Records on Google Earth, we also found that our house does not stand out in any way when focusing on Lake Avenue South.

T-6



There are houses in the adjacent blocks that are just as close and some actually even encroach into Lake Avenue South. See Google Earth Map.

### **A Statement of Need:**

In our preliminary planning with Heather Hiner, our home designer, we have found that the addition needs to connect with our existing living spaces on the Lake Avenue side so that the existing bedroom/office/bath area doesn't have to be disturbed. See Interior photos. The indicated wall on the interior photo would simply be removed and open up the addition to the existing living space with a cathedral ceiling. This would allow for our existing house to go virtually undisturbed so that we could live in our house during the construction process. We also found that accomplishing our handicapped accessible goal would not be possible without set back variances. The rooms would be too small to allow for a turning radius, wide doors and space for mobility devices.

### **Other Plans we have considered:**

1. We considered creating a main floor entrance off of Lake Ave South which would involve developing an additional driveway &/or roadway and bringing in a significant amount of fill getting it up to grade. This would be an unnecessary duplication of entering our property and would be disruptive to the neighborhood. Other plans including an elevator and our current lower level entrance were hence considered.
2. We considered putting an addition onto the driveway area (south side). This would mean being closer to abutting property neighbors on Minnesota Avenue and losing our existing heated garage and mudroom entrance. It would also leave our existing 3<sup>rd</sup> floor loft windows either blocked by a roof or looking out over a roof for a view. It could also mean gutting the entire house in order to create a plan that would "marry" the old and new as well as the proposed plan. We realize that cost isn't a factor, but we believe that gutting our entire house is an extreme cost and would cause us to be temporarily homeless during the construction process. We also feel that, aesthetically, an addition here would look more like an add-on and not fit into the neighborhood. According to our calculations, we would run into the same problem with the 37<sup>th</sup> Street 25 ft setback because of the angle of the house and also run into setbacks from our detached garage.
3. We considered the back (west) side that would put our addition closer to our neighbors lot line and would mean losing our existing decks with a hot tub. According to our calculations, this area would not provide the needed square footage for handicapped accessibility due to back yard setbacks and detached garage setbacks.

7-1





Existing houses that are very close to Lake Ave S or encroach into it. Some also appear to have zero set back from the street.



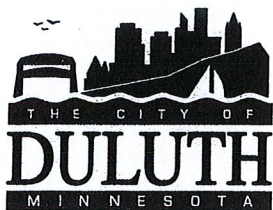
Lent Residence/Variance Applicant



Bob & Carole Lent  
3635 Lake Ave. South  
Duluth, MN 55802  
*Circled markers are a pre-  
survey guess of new addition*







City of Duluth  
Planning Division

411 West First Street • Room 208 • Duluth, Minnesota 55802-1197  
218-730-5580 • Fax: 218-730-5904 • [www.duluthmn.gov](http://www.duluthmn.gov)

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**DATE:** April 24, 2014

**RE:** Notice of Public Hearing for a Variance at 3635 Lake Avenue S (PL 14-035)

Dear Sir or Madam,

You are receiving this letter in order to inform you of a planning activity near your property at 3635 Lake Ave S. On April 8, 2014, the City received a petition from Robert and Carole Lent for a variance; they are asking for a variance for front and side yard setbacks for a proposed addition. The City's review of this project is to ensure it complies with the City's variance process as established in the UDC (Legislative Code Sec. 50-37.9). State statute requires that the City send written notice to property owners within 350 feet of a project area when certain zoning applications are submitted.

A variance is a zoning application through which a property owner asks for relief from the specific terms and provisions of the UDC, and can only be granted after showing practical difficulty due to circumstances related to the lot or property. Examples of variances include changes to lot line setbacks or height limit.

This matter is scheduled to be reviewed by the Duluth Planning Commission at **5:00 pm, on Tuesday, May 13, 2014**, in the 3<sup>rd</sup> floor Council Chambers at City Hall. If you have an interest in this matter, it is suggested that you attend the public hearing or send your written comments to the Planning Commission at 411 West First Street, Duluth, MN, 55802.

Please note that staff reports on agenda items, including more detailed information such as public agency comments and staff conclusions, are typically available on the Planning Division's Web Site, [www.duluthmn.gov/planning](http://www.duluthmn.gov/planning), the Friday before the Planning Commission hearing date. In addition, the agenda is typically posted the Wednesday before the hearing date, and the public is encouraged to review the agenda because occasionally items are delayed until the following month.

If you have any questions or comments, please email me at [jmoses@duluthmn.gov](mailto:jmoses@duluthmn.gov) or call me at 730-5328.

Respectfully,

Jenn Reed-Moses, AICP  
Planner II

Attachment: Area Map

Dear Mrs. Jean Reed-Moses  
We have no objection  
to granting this variance in  
fact we hope you will  
approve it. It will be a  
nice addition to the neighbor-  
hood.

Sincerely,  
Marcia Nelson

3702 Minnesota Ave. Duane Nelson